

§ 40.522

27 CFR Ch. I (4–1–11 Edition)

§ 40.522 Reports.

(a) *General.* Every manufacturer of processed tobacco must prepare a monthly report on TTB F 5250.1 in accordance with the instructions for the form. The report must be prepared at the times specified in this section and must be prepared whether or not any operations or transactions occurred during the period covered by the report. The manufacturer must retain a copy of each report in accordance with the provisions of this subpart.

(b) *First report(s).* The first monthly report must be submitted by the 20th day of the month following the month in which the permit or authorization is issued. If the manufacturer is operating as a manufacturer of processed tobacco under the transitional rule set forth in § 40.493, the manufacturer must submit the first report by the 20th day of the month following the month in which TTB provides written acknowledgement of the receipt of the application filed under § 40.492. In the transitional case, the manufacturer must also submit reports for all previous months back to April 2009. For example, a manufacturer who receives an acknowledgement, dated July 17, 2009, must submit by August 20, 2009, a total of four reports, one each for April, May, June, and July 2009.

(c) *Reports of no activity.* Reports with the notation “No Activity” must be made for those months in which no activity occurs.

(d) *Reports of removals.* A manufacturer who removes processed tobacco for shipment to someone other than a person holding a TTB permit as a manufacturer of processed tobacco, a manufacturer of tobacco products, or an export warehouse proprietor must report such removal on TTB F 5250.2 by the close of the business day on the day following the removal, in accordance with the instructions on the form. A manufacturer operating under the transitional rule set forth in § 40.493 must also comply with the requirements of this paragraph.

(e) *Concluding report.* A concluding report, covering the period from the first of the month to the date of the con-

cluding inventory, shall be made with such inventory.

(26 U.S.C. 5722)

EFFECTIVE DATE NOTE: By T.D. TTB-80, at 74 FR 37552, July 29, 2009, § 40.522 was amended in the last sentence of paragraph (b) by revising the date “August 15, 2009” to read “August 20, 2009”, effective July 29, 2009 through June 22, 2012.

§ 40.523 Inventories.

Every manufacturer of processed tobacco must provide a true and accurate inventory on TTB F 5210.9 in accordance with instructions for the form. The manufacturer must make such an inventory at the time of commencing business, at the time of transferring ownership, at the time of changing location of the factory, at the time of concluding business, and at such other time as any appropriate TTB officer may require. In the case of a manufacturer operating under the transitional rule set forth in § 40.493, that manufacturer must make an inventory within 10 days of the date of TTB’s written acknowledgement of the receipt of the application filed under § 40.492. Each such inventory is subject to verification by the appropriate TTB officer.

(26 U.S.C. 5721)

§ 40.524 Retention of documents.

Every manufacturer of processed tobacco must retain all records and reports required under this subpart, including copies of permits, authorizations, inventories, and reports, for three years following the close of the calendar year in which filed or made, or in the case of an authorization, for three years following the close of the calendar year in which the operation under such authorization is concluded. Such records shall be made available for inspection by the appropriate TTB officer upon request.

(26 U.S.C. 5741)

§ 40.525 Discontinuance of operations.

Every manufacturer of processed tobacco who desires to discontinue operations and close a factory must dispose of all processed tobacco on hand, make a concluding inventory and concluding

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report, in accordance with the provisions of §§ 40.523 and 40.522, respectively, and surrender the permit to the appropriate TTB officer.

(26 U.S.C. 5721, 5722)

§ 40.526 Minimum manufacturing and activity requirements.

A permit to manufacture processed tobacco will only be granted to those persons engaged in the processing of tobacco. A permit may be suspended, and subsequently revoked, if the person has no activity under such permit for a period of one year. A person whose permit as a manufacturer of processed tobacco has been revoked for non-use, who wishes to engage in such business, must re-apply for such permit.

(26 U.S.C. 5712)

§ 40.527 Authorization to package processed tobacco.

A permit to manufacture processed tobacco does not authorize packaging of processed tobacco. Packaging of processed tobacco may only occur on the bonded premises of a manufacturer of tobacco products.

§ 40.528 Suspension and revocation of permit.

Where the appropriate TTB officer has reason to believe that a manufacturer of processed tobacco has not in good faith complied with the provisions of 26 U.S.C. chapter 52, and regulations thereunder, or with any other provision of 26 U.S.C. with intent to defraud, or has violated any condition of his permit, or has failed to disclose any material information required or made any material false statement in the application for the permit, or is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with 26 U.S.C. chapter 52, or has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, the appropriate TTB officer shall issue an order, stating the facts charged, citing

such person to show cause why his permit should not be suspended or revoked. Such citation shall be issued and opportunity for hearing afforded in accordance with part 71 of this chapter, which part is applicable to such proceedings. If, after hearing, the hearing examiner, or on appeal, the Administrator, finds that such person has not shown cause why his permit should not be suspended or revoked, such permit shall be suspended for such period as the appropriate TTB officer deems proper or shall be revoked.

EFFECTIVE DATE NOTE: By T.D. TTB-80, at 74 FR 37552, July 29, 2009, § 40.528 was amended in the first sentence by removing the phrase “manufacturer of tobacco products” and adding in its place the phrase “manufacturer of processed tobacco”, effective July 29, 2009 through June 22, 2012.

OTHER PROVISIONS RELATING TO MANUFACTURERS OF PROCESSED TOBACCO

§ 40.531 Alternate methods or procedures.

(a) *General.* A manufacturer of processed tobacco, on specific approval by the appropriate TTB officer as provided in this section, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this subpart. The appropriate TTB officer may approve an alternate method or procedure, subject to stated conditions, when the appropriate TTB officer finds that—

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this subpart.

(b) *Application.* A manufacturer of processed tobacco who desires to employ an alternate method or procedure must submit a written application to the appropriate TTB officer. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons